

### **Remarks**

Following the above amendments, claims 1-31 are pending in this application. Claim 9 has been rejected under 35 U.S.C. § 112 for failure to particularly point out and distinctly claim the invention. Each of claims 1-31 has been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,438,594 to Bowman-Amuah.

#### **A. Claim 9**

Claim 9 has been amended herein to replace the term “write signal” with the term “write statement”. Applicants submit that there is an antecedent basis in claim 9 for the term “write statement” and that the rejection of claim 9 under 35 U.S.C. § 112 should be withdrawn.

#### **B. Independent Claims 1 and 23**

Each of claims 1-31 has been rejected under 35 U.S.C. § 102(e) as being anticipated by Bowman-Amuah. Of claims 1-31, claims 1 and 23 are independent claims. The rejection of these claims cannot stand because Bowman-Amuah does not disclose each element of the claims, including, as one example, the use of a repository subsystem that is external to and communicatively coupled to each of the source subsystem and the target subsystem.

A rejection under Section 102 is not proper unless each element of the claim is disclosed in a single prior art reference. To anticipate a claim, the reference must teach every element of the claimed invention. Manual of Patent Examining Procedure 2131. “The identical invention must be shown in complete detail as is contained in the . . . claim.” MPEP 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236 (Fed. Cir 1989). Thus, for the Examiner’s rejections to be proper in this application, Bowman-Amuah must teach every element of the claimed invention, in as much detail as is present in the claim. Bowman-Amuah does not meet this standard with respect to the pending claims of the present application.

## **1. Claims 1 and 23 Claim a Repository Subsystem**

The pending claims of this application each include a limitation directed to the presence or use of a repository subsystem positioned external to and in communication with a source subsystem and a target subsystem. As is apparent from the pending application, the repository subsystem serves as an alternate queue or storage location when, for the reasons of storage capacity, a modification to the source subsystem cannot be communicated to the host subsystem.

Only two independent claims remain pending in this application: claim 1 and claim 23. Each includes the claim element of a repository subsystem. Claim 1 and claim 23 are set out below, with all claim amendments incorporated:

1. A computer system, comprising:  
a source subsystem;  
a target subsystem, wherein the source node and the target node are communicatively coupled; and  
a repository subsystem, wherein the repository subsystem is external to each of the source subsystem and the target subsystem and wherein the repository subsystem is communicatively coupled to each of the source subsystem and the target subsystem to facilitate the communication of data between the repository subsystem and the target subsystem and between the repository subsystem and the source subsystem.

23. (Amended) A method of data replication in a computer system, comprising a source subsystem, a target subsystem, and a repository subsystem, wherein the repository subsystem is external to and communicatively coupled to each of the source subsystem and the target subsystem, comprising:

issuing a write subsystem at the source subsystem; and  
delivering the write statement to the repository subsystem for storage at the repository subsystem for later transmission to the target subsystem.

The requirement that the repository subsystem exist externally to the source subsystem and the target subsystem clarifies that the repository subsystem is a physical repository that is separate

from each of the source subsystem and the target subsystem. This requirement also clarifies that source subsystem, target subsystem, and repository subsystem do not each represent a single logical storage location or repository. Rather, the repository subsystem is a physical storage location that is coupled to and serves both the source subsystem and the target subsystem. Bowman-Amuah does not disclose this element of claims 1 and 23.

## **2. Bowman-Amuah Does Not Disclose a Repository Subsystem**

Bowman-Amuah, despite its obvious length, does not disclose a repository subsystem that is external to and coupled to each of a source subsystem and a target subsystem. According to the examiner, a “repository” is disclosed in column 56, lines 26-35 of Bowman-Amuah. The entire text of this passage is repeated below.

Replication Services support an environment in which multiple copies of documents must be maintained. A key objective is that documents should be shareable and searchable across the entire organization. Therefore, the architecture needs to provide logically a single repository, even though the documents are physically stored in different locations. The following might be possible if documents are replicated on alternative server(s): better availability or recoverability of a distributed application; better performance; reduced network cost; etc.

(Bowman-Amuah, column 56, lines 26-35). It is clear from this passage that the “repository” of Bowman-Amuah is a *logical* repository (“the architecture needs to provide logically a single repository”) from the perspective of the user of the architecture. This passage concerns only the architectural goal that the user of the system should view the storage architecture of the system as a single *logical* repository. Neither this passage, nor the remainder of the disclosure of Bowman-Amuah, teaches the use of a physical repository that is coupled to and external to each of a target subsystem and a source subsystem. Because Bowman-Amuah plainly does not disclose this element of claims 1 and 23, Applicants submit that the Section 102 rejections of claims 1 and 23 should be withdrawn and these claims should be passed to issuance.

**C. Dependent Claims 2-22 and 24-31**

Each of dependent claims 2-22 and 24-31 depend, either directly or indirectly from claim 1 or claim 23. Because these claims depend from an otherwise allowable base claim, these claims will not be discussed individually. Applicants submit that the rejection of these claims should be withdrawn and that these claims should be passed to issuance.

**Conclusion**

Applicants respectfully submit that pending claims 1-31 are allowable and requests that these claims be passed to issuance.

Respectfully submitted,



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